

105TH CONGRESS  
2D SESSION

# S. 2072

To amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 13, 1998

Mr. DOMENICI (for himself and Mr. FRIST) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PERMANENT EXTENSION OF RESEARCH CRED-**

4                       **IT.**

5       (a) IN GENERAL.—Section 41 of the Internal Reve-  
6       nue Code of 1986 (relating to credit for increasing re-  
7       search activities) is amended by striking subsection (h).

1 (b) CONFORMING AMENDMENT.—Section 45C(b)(1)  
 2 of the Internal Revenue Code of 1986 is amended by strik-  
 3 ing subparagraph (D).

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to amounts paid or incurred after  
 6 June 30, 1998.

7 **SEC. 2. MODIFICATIONS OF CREDIT FOR QUALIFIED RE-**  
 8 **SEARCH EXPENSES.**

9 (a) FIXED-BASE PERCENTAGE.—Subparagraph (A)  
 10 of section 41(c)(3) of the Internal Revenue Code of 1986  
 11 (defining fixed-base percentage) is amended to read as fol-  
 12 lows:

13 “(A) IN GENERAL.—Except as otherwise  
 14 provided in this paragraph, the fixed-base per-  
 15 centage is the percentage which the aggregate  
 16 qualified research expenses of the taxpayer for  
 17 taxable years beginning in the base period is of  
 18 the aggregate gross receipts of the taxpayer for  
 19 such taxable years. For purposes of the preced-  
 20 ing sentence, the base period for any taxable  
 21 year is any period of 4 consecutive taxable  
 22 years elected by the taxpayer from the 10 im-  
 23 mediately preceding taxable years.”

24 (b) START-UP COMPANIES.—

25 (1) FIXED-BASE PERCENTAGE.—

(A) IN GENERAL.—Clause (i) of section 41(c)(3)(B) of such Code (relating to start-up companies) is amended to read as follows:

“(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the taxpayer did not have both gross receipts and qualified research expenses in each of the 10 taxable years described in subparagraph (A).”

(B) MAXIMUM PERCENTAGE NOT TO APPLY.—Section 41(c)(3)(C) of such Code (relating to maximum fixed-base percentage) is amended by adding at the end the following: “This subparagraph shall not apply to a taxpayer to which subparagraph (B) applies.”

(C) CONFORMING AMENDMENTS.—Section 41(c)(3)(B)(ii) of such Code is amended—

(i) by striking “1st 5 taxable years beginning after December 31, 1993” and inserting “1st 5 taxable years in the 10-year period described in subparagraph (A)”, and

(ii) by inserting “and” at the end of subclause (V), by striking “, and” at the

1                   end of subclause (VI), and by striking sub-  
 2                   clause (VII).

3                   (2) REPEAL OF MINIMUM BASE AMOUNT  
 4                   FOR START-UP COMPANIES.—Section 41(c)(2)  
 5                   of the Internal Revenue Code of 1986 (relating  
 6                   to minimum base amount) is amended by add-  
 7                   ing at the end the following: “This paragraph  
 8                   shall not apply to a taxpayer to which para-  
 9                   graph (3)(B) applies.”

10           (c) REPEAL OF LIMITATION ON CONTRACT RE-  
 11           SEARCH EXPENSES.—Section 41(b)(3) of the Internal  
 12           Revenue Code of 1986 (defining contract research ex-  
 13           penses) is amended—

14                   (1) by striking “65 percent of” in subparagraph  
 15                   (A), and

16                   (2) by striking subparagraph (C).

17           (d) EFFECTIVE DATES.—

18                   (1) IN GENERAL.—The amendments made by  
 19                   this section shall apply to taxable years beginning  
 20                   after December 31, 1998.

21                   (2) TRANSITION RULE.—In the case of a tax-  
 22                   payer’s 1st 5 taxable years beginning after Decem-  
 23                   ber 31, 1998, the taxpayer may elect to have section  
 24                   41 of the Internal Revenue Code of 1986 applied

1 without regard to the amendments made by sub-  
 2 sections (a) and (b).

3 **SEC. 3. MODIFICATIONS OF BASIC RESEARCH CREDIT.**

4 (a) **EXPANSION OF CREDIT TO RESEARCH DONE**  
 5 **WITH NATIONAL LABORATORIES AND FEDERAL RE-**  
 6 **SEARCH CENTERS.**—Section 41(e)(6) of the Internal Rev-  
 7 enue Code of 1986 is amended by adding at the end the  
 8 following new subparagraph:

9 “(E) **NATIONAL LABORATORIES AND RE-**  
 10 **SEARCH CENTERS.**—Any organization which  
 11 is—

12 “(i) a national laboratory specified by  
 13 the Secretary of Energy as being under  
 14 contract with the Department of Energy,  
 15 or

16 “(ii) a federally funded research and  
 17 development center (within the meaning of  
 18 section 2367 of title 10, United States  
 19 Code).”

20 (b) **BASIC RESEARCH.**—Section 41(e)(7) of the Inter-  
 21 nal Revenue Code of 1986 (relating to definitions and spe-  
 22 cial rules) is amended by adding at the end the following  
 23 new subparagraph:

24 “(F) **SPECIFIC COMMERCIAL OBJECTIVE.**—  
 25 For purposes of subparagraph (A), research

1           shall not be treated as having a specific com-  
2           mercial objective if—

3                   “(i) all results of such research are to  
4                   be published in such a manner as to be  
5                   available to the general public prior to  
6                   their use for a commercial purpose, or

7                   “(ii) such research is done for a con-  
8                   sortium of domestic corporations which  
9                   represent substantially all of the domestic  
10                  corporations conducting business within  
11                  the sector to which the research relates.”

12       (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 1998.

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